

Section 313.837 Report on Competitiveness

Introduction

Since its inception, the Missouri law governing riverboat gambling has included a loss limit of \$500 per person for each “gambling excursion”, now a legal fiction used only for purposes of collecting the \$2 admission fee and administering the loss limit.¹ Missouri’s loss limit emulated an Iowa law that was repealed in 1995. Missouri is now the only jurisdiction in the world imposing a loss limit on its gambling customers.

Section 313.837, RSMo, requires the Commission to report annually to the General Assembly “the status of the competitiveness of Missouri excursion gambling boats when compared to the gaming tax rate of adjoining states and the effects of the loss limit imposed by subdivision (3) of Section 313.805, RSMo, on the competitiveness of the gaming industry in Missouri.”

Competitive Impact of the \$500 Loss Limit

For the past ten years, the Commission has fulfilled this statutory requirement by reporting that the data unequivocally shows the loss limit renders Missouri casinos less competitive than casinos in neighboring jurisdictions. The Commission believes that the data reported during this tenure offers the General Assembly sufficient information to assess the impact of the loss limit on the competitiveness of Missouri casinos versus those in neighboring jurisdictions.

For the past several years, the Commission has asked the General Assembly to consider legislation repealing this requirement and thus allowing the Commission to step away from this often-volatile political issue. During the 2005 legislative session, the Joint Committee on Gaming and Wagering endorsed this concept by adopting a resolution recognizing the importance of maintaining an independent Gaming Commission that is isolated from involvement in such political issues.²

Competitive Impact of Missouri’s Gaming Tax Rate

The gaming tax rates imposed on riverboat gaming operations in Missouri have not changed since the first licenses were issued in May 1994. Missouri law imposes an 18% tax on the adjusted gross receipts (AGR) of riverboat gaming operators.³ In addition, a local tax of 2% on AGR is collected by the state and distributed to each home dock city or county.⁴

The statute also imposes an admission fee on the operators of excursion gambling boats in the amount of two dollars (\$2) per patron, per excursion, which is split between the home dock community and the state.⁵ Furthermore, pursuant to Section 313.824, RSMo, excursion gambling boat operators are charged for the cost of gaming agents who are assigned to the riverboat with the responsibility of protecting the public. While the cost of Commission agents varies with each operation, the average annual cost is approximately \$611,000 per gaming facility.

Despite the massive tax increases recently enacted by Illinois, Missouri’s gaming tax rate remains among the top tier in the United States. The Commission continues to believe that graduated gaming tax rates, such as that adopted by Illinois, represent bad economic policy. Graduated tax rates based on gaming

¹ Section 313.800.1(8), RSMo., defines a “gambling excursion” as “the time during which gambling games may be operated on an excursion gambling boat whether docked or during a cruise.” Riverboat gambling operators are required to submit an excursion schedule to the Gaming Commission, which is responsible for approving the schedule. Most excursions are two hours with the exception usually being the last excursion of the gaming day, which is typically three hours. Thus, as a practical matter, the loss limit is \$500 every two hours.

² The resolution stated, in part, the following:

WHEREAS, the Joint Committee on Gaming and Wagering recognizes the importance of maintaining the independence of the Missouri Gaming Commission; and



WHEREAS, the Joint Committee on Gaming and Wagering believes that requiring the Missouri Gaming Commission to report on the effects of loss limits unnecessarily involves the Commission in a political issue, which is inconsistent with the duties of an impartial regulatory and law enforcement agency; and

WHEREAS, the Joint Committee on Gaming and Wagering finds that it is in the best interest of the effective regulation of legalized gaming to isolate the Missouri Gaming Commission from political issues or involvement; and

8

tax revenue penalize companies for placing capital at risk. Furthermore, high graduated tax rates discourage reinvestment of profits in such things as new technology, the construction of non-gaming amenities and marketing dollars used to grow the business. Finally, such tax policy inevitably results in layoffs and fewer job offerings.⁶ In summary, this type of tax policy encourages poorly maintained, understaffed facilities that cater primarily to local customers.

Illinois Tax Increase Summary

Tax Bracket (AGR)	Previous Rate	2002 Increase
Less than \$25 million	15.0%	15.0%
\$25 - \$50 million	20.0%	22.5%
\$50 - \$75 million	25.0%	27.5%
\$75 - \$100 million	30.0%	32.5%
\$100 - \$150 million	35.0%	37.5%
\$150 - \$200 million	35.0%	45.0%
Greater than \$200 million	35.0%	50.0%

Tax Bracket (AGR)	2003 Increase
Less than \$25 million	15.0%
\$25 - \$37.5 million	27.5%
\$37.5 - \$50 million	32.5%
\$50 - \$75 million	37.5%
\$75 - \$100 million	45.0%
\$100 - \$250 million	50.0%
Greater than \$250 million	70.0%

Illinois is currently reconsidering its tax policy. The tax hike in 2003 that produced a top rate of 70% of gross gaming revenues resulted in the loss of 3,000 jobs, a \$50 million reduction in wages and benefits for casino workers and nearly a moratorium on casino improvements other than necessary maintenance.⁷ While state revenue collections from casinos did increase, the state's take was less than half of what had been projected.

Meanwhile, Missouri's stable tax environment continues to attract substantial investment dollars despite Missouri's strict regulatory stance in other areas. Since the licensing of the first casinos in 1994, approximately 60% of the operating cash flow generated by casino companies has been reinvested back into Missouri, much of it in non-gaming amenities such as hotel rooms, better infrastructure, meeting space, restaurants, movie theatres and venues for live performances. In simpler terms, for every \$100 million the Missouri casinos have generated in profit, they have invested \$60 million of it back into Missouri.

During the past legislative session, the Illinois legislature passed a bill lowering the top tax rate to 50%. At the time of this writing, the bill awaits consideration from Illinois Governor Rod Blagojevich. While this will still put Illinois towards the top of the gaming tax rate list, it will likely result in an increase in capital investment in Illinois as well as more aggressive marketing by Illinois casinos. We can expect this activity to cut into gains made over the past few years by Missouri casinos on the eastern side of the state.

In 2002, Indiana increased its effective tax rate by 5% by adopting a graduated tax rate and eliminating its boarding fee on customers staying over for more than one "excursion". While the Commission argues against the graduated tax rate, the policy has not had a negative impact on Indiana gaming revenues because the legislature coupled regulatory reforms with the tax increase. Before

WHEREAS, the Joint Committee on Gaming and Wagering finds that relieving the Missouri Gaming Commission from the requirement of reporting to the General Assembly on the effect of loss limits will benefit the Commission by allowing it to focus entirely on its mission of administering laws and regulations maintaining the integrity of commercial and charitable gaming in Missouri;

NOW, THEREFORE, BE IT RESOLVED, that the Joint Committee on Gaming and Wagering recommends that the provision of Section 313.837, RSMo, requiring the Missouri Gaming Commission to report annually to the General Assembly the effects of loss limits on the competitiveness of the gaming industry in Missouri be repealed.

³ Adjusted gross receipts are defined by Section 313.800, RSMo, as "the gross receipts from licensed gambling games and devices less the winnings paid to wagerers." In other words, the amount the casino "wins" from patrons. It is often referred to as "casino win". The tax on AGR is set forth in Section 313.822, RSMo.

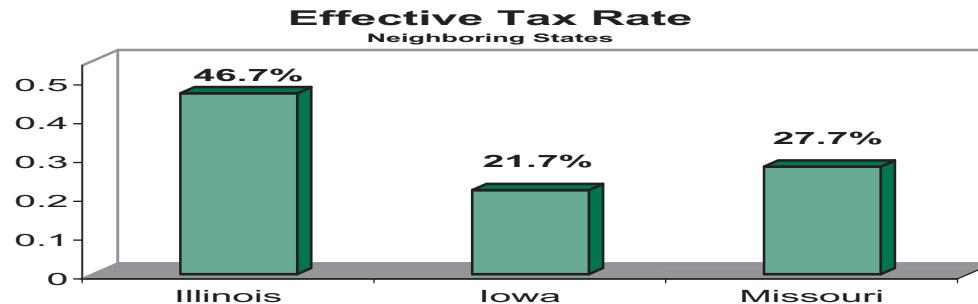
⁴ Section 313.822, RSMo.

⁵ Section 313.820, RSMo.

⁶ "Casinos blast Illinois tax increase", Chicago Sun Times, September 3, 2003, quoting Illinois Casino Gaming Association executive director Tom Swoik, "As a direct result of this tax policy, we have laid off nearly 700 employees and are not filling close to 600 additional vacancies. Additionally, we anticipate there may be further layoffs in the months to come."

2002, Indiana imposed restricted boarding and mandatory cruising. In conjunction with the 2002 tax increase, Indiana rescinded the boarding and cruising requirements, thus allowing casino operators to effectively absorb the tax increase.⁸

⁷ WJLA.com news service.



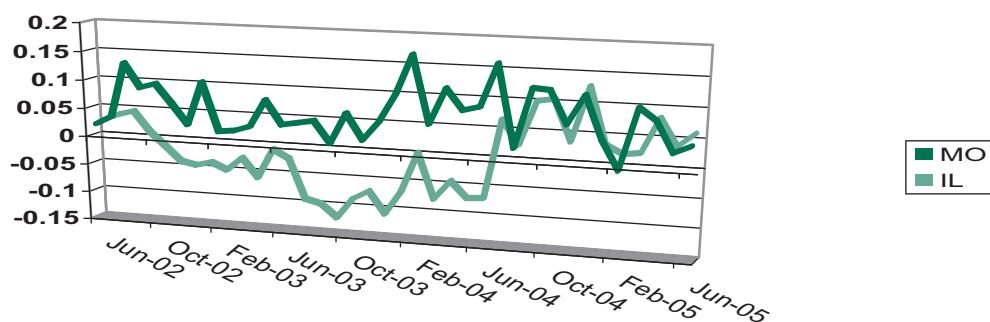
While the Iowa tax rate is lower than Missouri's, it is comparable; and like Missouri, its tax structure has not changed since initial enactment. There is no evidence that the lower Iowa tax rate is having negative impact on the competitiveness of Missouri casinos. Certainly, over the long term, the fact that Indian casinos in Kansas pay no tax will have an impact on western Missouri gaming operators. You should also be aware of the potential for rapid expansion of Kansas Indian casinos. Finally, Missouri casinos have been profitable in spite of the high tax rate largely because of the Commission's gradual approach to licensure. The Commission's practice of waiting to introduce new gaming capacity into a market until there is adequate demand allows Missouri licensees to remain profitable and encourages them to reinvest in Missouri.

9

Summary

The Missouri tax rate remains among the highest in the gaming industry. However, its structure has some inherent advantages over Illinois and the lower tax rate in Iowa does not appear to be affecting the competitiveness of the Missouri operators.

Comparison of Gaming Revenue Growth
(year over year % change)



⁸ For the 12 months ended June 2003, Indiana casinos realized a \$233 million increase in gaming revenue, while taxes increased only about \$165 million. Gaming revenue continued to outpace taxes in FY 2004.